

Livingston landfill's air permit thrown out

By [DAVID J. MITCHELL](#)

Advocate Florida parishes bureau

Published: Aug 25, 2007 - Page: 1B

DENHAM SPRINGS — A three-judge state appeal court panel has thrown out a 2004 air permit for the Woodside Landfill in Livingston Parish.

The ruling rejected Louisiana regulators' attempt to apply a U.S. Environmental Protection Agency exemption that a federal appeals court had overturned, court records show.

If the Louisiana 1st Circuit Court of Appeal decision stands, it means the state Department of Environmental Quality must require Waste Management Inc. to do more environmental review and consider whether additional pollution controls are needed before issuing a new permit, attorneys on both sides of the dispute said Friday.

Houston-based Waste Management owns and operates the 425-acre landfill and buffer property between Walker and Livingston on U.S. 190.

In February 2005, the Louisiana Environmental Action Network, Concerned Citizens of Livingston Parish and other plaintiffs sued DEQ in East Baton Rouge Parish. The plaintiffs sought to force the agency to require the environmental review and to overturn the permit, issued in December 2004.

In rendering the decision Wednesday, the panel overruled a Dec. 12, 2005, lower court decision that had upheld the permit and declined to call for doing the special review.

DEQ had argued that a 1994 EPA memo laying out the exemption, and later made a regulation, applied in Louisiana.

The 1st Circuit panel held the regulation didn't apply and that the U.S. District of Columbia Circuit Court of Appeals threw out the regulation in June 2005.

Plaintiffs attorneys contended Friday that the decision also means the landfill must stop taking trash. The decision vacated an air permit for the whole facility.

"I think really the moral of the story is that DEQ needs to follow the law in the first place and if it doesn't, there can be huge ramifications," said Jill Witkowski, staff attorney with the Tulane Environmental Law Clinic of New Orleans, which handled the case.

But DEQ and Waste Management officials disputed that contention.

A Waste Management statement said the decision doesn't effect its operations at the landfill. A DEQ attorney argued the decision didn't address trash collection and applies only in the context of gas collection and flare equipment at the landfill.

The system, which has a 25-foot flare stack and underground pipes to collect and burn off gases created by decomposing trash buried in the landfill, was required under new federal air regulations, DEQ attorney Donald Trahan said.

Waste Management spent more than \$1 million on the equipment to eliminate the release of up to 28,000 tons of methane annually, the company said. DEQ permitted construction in May 2003.

But incomplete combustion by the flare increases landfill carbon monoxide releases by about 500 tons annually, a rise triggering the environmental review short of the rejected EPA exemption.

Waste Management, an intervener in the case, said it plans to appeal the decision. Trahan said DEQ is considering its next step.

The landfill accepts construction and non-hazardous industrial waste, as well as taking municipal waste from Livingston Parish and other localities within 100 miles of Baton Rouge.

Circuit Judges Burrell J. Carter and Vanessa G. Whipple concurred in the ruling written by Judge J. Michael McDonald in favor of the plaintiffs, court records show.

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